

1 R. Alexander Saveri (173102)
rick@saveri.com

2 Geoffrey C. Rushing (126910)
grushing@saveri.com

3 Cadio Zirpoli (179108)
cadio@saveri.com

4 SAVERI & SAVERI, INC.
5 706 Sansome Street
6 San Francisco, CA 94111
7 Telephone: (415) 217-6810
8 Facsimile: (415) 217-6813

9 *Chairman of the Executive Committee*
10 *for the Direct Purchaser Plaintiffs*

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 IN RE OPTICAL DISK DRIVE
15 ANTITRUST LITIGATION

Case No. 3:10-md-02143 RS

MDL No. 2143

16
17 This Document Relates to:
18 ALL DIRECT PURCHASER ACTIONS

**DIRECT PURCHASER PLAINTIFFS’
NOTICE OF SECOND POST-
DISTRIBUTION ACCOUNTING**

19 Judge: Hon. Richard Seeborg
20
21
22
23
24
25
26
27
28

PLEASE TAKE NOTICE that in accordance with the United States District Court, Northern District of California's *Procedural Guidance for Class Action Settlements* (updated Nov. 1 and Dec. 5, 2018), available at <https://www.cand.uscourts.gov/forms/procedural-guidance-for-class-action-settlements/> ("Guidance"), Direct Purchaser Plaintiffs hereby submit the following Post-Distribution Accounting regarding the distribution of settlement funds authorized by the Court's Order Granting Direct Purchaser Plaintiffs' Motion for Order Authorizing Distribution of Remaining Settlement Funds and Cy Pres Distribution of Future Remaining Funds, ECF. No. 3061 (Sept. 2, 2021).¹ Checks were mailed to eligible claimants on February 4, 2022. Declaration of Derek Smith re Residual Distribution to Approved Claimants from the Net Settlement Funds ¶ 3 ("Smith Decl."), submitted herewith. The void date of all checks is May 5, 2022. *Id.* ¶ 4.

<u>Requested Information</u> ²	<u>Response</u>	<u>Source</u>
Total settlement fund	\$74,900,000	ECF No. 2902 at 2
Total number of class members	Unknown	n/a
Total number of class members to whom notice was sent and not returned as undeliverable	436,488 potential class members via USPS and 274,874 via email on 5/31/2013 (HLDS notice)	ECF No. 986-3 ¶¶ 4–5
	325,278 potential class members via USPS on 12/13/2013 (Panasonic notice)	ECF No. 1220-2 ¶ 4
	446,751 potential class members via USPS and 176,866 via email on 3/23/2015 (claims notice)	ECF No. 1570-1 ¶¶ 6–7
	325,312 potential class members via USPS on 5/8/2014 (NEC notice)	ECF No. 1358-2 ¶ 4
	253,627 potential class members via USPS on 1/7/2016 (BenQ,	ECF No. 1825 ¶ 4

¹ The initial distribution checks were mailed to eligible claimants on December 17 and 18, 2019, see Declaration of Rachel Christman re Payments to Approved Claimants from the Net Settlement Funds ¶ 4, ECF No. 2910-1 (Jan. 8, 2020), as authorized by the Court's Order Granting Direct Purchaser Plaintiffs' Motion for Order Authorizing Distribution of Settlement Funds, ECF No. 2906 (Sept. 16, 2019).

² See *Guidance*, Post-Distribution Accounting ¶ 1(a).

<u>Requested Information²</u>	<u>Response</u>	<u>Source</u>
	Pioneer, PLDS, QSI, Sony, TEAC, TSST, and claims notice) (258,778 notices sent less 5,151 returned as undeliverable)	
Number and percentage of claim forms submitted	28,146 (11.1% of total number of 253,627 potential class members to whom notice was sent via USPS on 1/7/2016 and not returned as undeliverable)	ECF No. 2902-1 ¶ 8
Number and percentage of opt-outs	<p>135 class members opted out of one or more settlements, including:</p> <p>74 from the HLDS settlement (0.02% of 436,488 potential class members sent notice via USPS on 5/31/2013)</p> <p>32 from the Panasonic settlement (0.01% of 325,278 potential class members sent notice via USPS on 12/13/2013)</p> <p>40 from the NEC settlement (0.01% of 325,312 potential class members sent notice via USPS on 5/8/2014)</p> <p>23 from the BenQ, Pioneer, PLDS, QSI, Sony, TEAC, and TSST settlements (0.01% of 253,627 potential class members sent notice via USPS on 1/7/2016 and not returned as undeliverable)</p>	<p>ECF No. 2902-1 ¶ 6, Ex. A</p> <p>ECF No. 986-3 ¶ 9, Ex. C</p> <p>ECF No. 1220-2 ¶ 8, Ex. C</p> <p>ECF No. 1358-2 ¶ 8, Ex. C</p> <p>ECF No. 1825 ¶ 8, Ex. C</p>
Number and percentage of objections	<p>4 to HLDS settlement (0.001% of 436,488 potential class members sent notice via USPS)</p> <p>0 to Panasonic settlement</p> <p>0 to NEC settlement</p> <p>0 to BenQ, Pioneer, PLDS, QSI, Sony, TEAC, and TSST settlements</p>	<p>ECF No. 986-3 ¶ 10</p> <p>ECF No. 1220-2 ¶ 9</p> <p>ECF No. 1358-2 ¶ 9</p> <p>ECF No. 1824 at 13; <i>see also</i> ECF Nos. 1825 ¶ 9, 1815</p>

1	Average recovery per claimant	\$1,861.53 (initial distribution)	ECF No. 2910-1 ¶ 4
2		\$2,145.63 (residual distribution)	Smith Decl. ¶ 3
3	Median recovery per claimant	\$10.00 (initial distribution)	ECF No. 2910-1 ¶ 4
4		\$231.08 (residual distribution)	Smith Decl. ¶ 3
5	Largest amount paid to class members	\$6,395,647.33 (initial distribution)	ECF No. 2910-1 ¶ 4
6		\$52,205.48 (residual distribution)	Smith Decl. ¶ 3
7	Smallest amount paid to class members	\$10.00 (initial distribution)	ECF No. 2910-1 ¶ 4
8		\$10.46 (residual distribution)	Smith Decl. ¶ 3
9	Methods of notice to class members	USPS, email, <i>Wall Street Journal</i> , settlement website	ECF No. 2902-1 ¶¶ 4–5
10	Methods of payment to class members	Paper checks sent via USPS, FedEx (initial distribution)	ECF No. 2910-1 ¶ 4
11		Paper checks sent via USPS (residual distribution)	Smith Decl. ¶ 3
12	Number of checks not cashed	10,624 (21 days after initial distribution)	ECF No. 2910-1 ¶ 5
13		3,907 (end of initial distribution)	ECF No. 3044-1 ¶ 8
14		59 (21 days after residual distribution)	Smith Decl. ¶ 4
15	Value of checks not cashed	\$8,775,232.62 (21 days after initial distribution)	ECF No. 2910-1 ¶ 5
16		\$45,863.74 (end of initial distribution)	ECF No. 3044-1 ¶ 8
17		\$88,878.79 (21 days after residual distribution)	Smith Decl. ¶ 4
18	Amounts distributed to each cy pres recipient	n/a	n/a
19	Administrative costs	\$1,799,433.53 of which \$1,445,805.10 were notice costs, \$235,764.80 were claims costs, and \$117,863.63 were estimated future claims costs	ECF No. 2902-1 ¶ 28
20	Attorneys' fees and costs	\$25,879,756.75 of which \$22,470,000 were fees and \$3,409,756.75 were costs	ECF Nos. 1535-1 ¶¶ 32–33, 1658, 1802-1 ¶ 21, 1851

Attorneys' fees in terms of percentage of the settlement fund	30%	ECF Nos. 1658, 1851
Multiplier	0.832	ECF No. 1851

Following the filing of this Notice of Post-Distribution Accounting, it will be posted on the ODD settlement website (www.ODDDirectPurchaserAntitrustSettlement.com) maintained by the Settlement Administrator. *See Guidance*, Post-Distribution Accounting ¶ 2.

Dated: February 25, 2022

Respectfully submitted,

/s/ R. Alexander Saveri

R. Alexander Saveri (173102)
Geoffrey C. Rushing (126910)
Cadio Zirpoli (179108)
SAVERI & SAVERI, INC.
706 Sansome Street
San Francisco, CA 94111
Telephone: (415) 217-6810
Facsimile: (415) 217-6813

*Chairman of the Executive Committee
for the Direct Purchaser Plaintiffs*